

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC#  
DATE FILED: 8/29/11

JOSA DELAROSA, FIANCER - MERCADO  
AND WILLIAMS REYNOSO

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

- against -

11 Civ. 4154 ( ) ( )

ANSWER

JAI LTD D/B/A MARYANN'S  
AND EDWARD L GLOBOTIAN

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I

**ADMISSIONS AND DENIALS**

In this section, state which factual allegations in the complaint you admit to and which factual allegations you deny. You should refer to the complaint paragraph by paragraph (and sentence by sentence within each paragraph), in the same order as the paragraphs and sentences appear in the complaint. Attach additional sheets of papers as necessary.

1. I HAVE INCLUDED 3 TYPES PAGES
2. OF ADMISSIONS AND DENIALS
3. I HAVE INCLUDED A 2 PAGE
4. STATEMENT OF OWNER SEE ATTACHED
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

STATEMENT OF OWNER (1) 2 PAGES

MaryAnn's Restaurant  
JAI LTD  
116 8th Avenue  
New York, New York 10011

Phone (212) 633-0877

Fax (212) 727 8677

Your honor

I request that this case be cancelled for lack of evidence and merit.  
If these employees have a complaint let them go to the department of labor.

Mr. de la Rosa was already collecting unemployment from us and working part time. He refused to properly do his work and was continually leaving 2 hours early. So he was cut to part time after the second BOH closing. He started collecting unemployment while working part time.

The week after the reopening (the third time), he continually did not perform his duties left when ever he felt like. Refused to listen to instructions from Luz Cortorreal. He had an argument on Friday with the day chef. He called me on my cell phone and told me he was not coming to work anymore.

In fact both De la Rosa and Willie continually left before 2:00 p m on a daily basis instead of 4:00 p.m most of 2011. Many times leaving the work unfinished and walk- in and work area not properly cleaned. The day chef was continually complaining about there job performance.

We were closed by NYC board of health 3 times in less then 12 months. Both of these employees were responsible for cleaning and proper storage of the food. They were not performing their duties. After the second closing I hired in a new day chef Domingo herra. Both Willie and de la Rosa continually left early and did not listen to him or perform their required duties.

In fact the week of the last closing we were up for re inspection. That week Willie twice got dressed and left before 2:00 even though both Domigo Herarra , the day chef and Luz Cortorreal the female restaurant manger told him he was not finished. He did not want to clean up or finish the work assigned to him. Leaving it for Domingo Herrera to finish. This was there regular routine.

Willie refused to take orders from luz cortorreal as did Mr. de la Rosa, because she was a female and younger then them. How are we supposed to run our business if they do only what they feel like and leave whenever they want.

I can produce both Luz Cortorreal and the day chef Domingo Herrar as well as Juan Lopez the lunch cook. All will testify to the work ethics and continually leaving 2 hours early.

Franlin Mercado was a busboy who got promoted to waiter. He continually messed up tables orders and food. He always wanted to be the boss and manipulate luz cortorreal. Both managers harry powell and luz cortorreal said he was a continual problem trying to be a waiter, unable to perform after having a few tables. So he was laid off because he was not a good waiter and not helping us service our customers. We are a restaurant and provide a service to customers. But if they cannot give the customers the correct food or there checks on time they do not come back.

After the third closing I was forced to change staff in order to properly operate my business or I might not have a business.

As I said we did all we could to tolerate and keep the employees but some people are very set in their ways and do not care if you operate your business or close.

This is a service business and if we do not perform a service, keep our establishment clean and handle the food properly we will not stay open. I am not an attorney and I am having enough trouble paying my rent and taxes to stay in business.

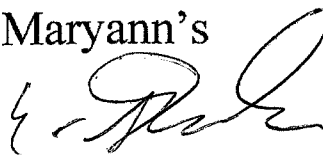
I do not want to spend any funds I do not have on an attorney. Mr Cilenti is a well trained and manipulative case writer, but I am sure he knows nothing about these employees work history or he would not have started this case.

1)I ask that you will dismiss this suit for lake of evidence and absolutely no merit.

2) If not I would request 90 days to secure an attorney from the legal office to help me.

Edward I Globokar  
Chef and owner

Maryann's



8/20/01

I  
**ADMISSIONS AND DENIALS**

- 1) I WOULD LIKE THE CASE DISMISSED AS I DO NOT OWE ANY WAGES TO THE THREE PLAINTIFFS:  
JOSE DE LA ROSA, FRANKLIN MERCADO, WILLIAMS REYNOSO.

THE DEFENDANTS ARE NOT ENTITLED TO ANY (1) UNPAID MINIMUM WAGES, (2) UNPAID OVERTIME COMPENSATION, OR (3) UNPAID SPREAD OF HOURS, AS THEY NEVER SCHEDULED OR WORKED MORE THAN 6 OR 7 HOURS PER SHIFT.

- 2) JOSE DE LA ROSA LEFT AND WAS LAID OFF TWICE SINCE STARTING. HE WAS NOT CONTINUOUSLY EMPLOYED SINCE 1991. HE WOULD COME IN EVERYDAY AT 8:30AM OR 9:00PM AND WOULD LEAVE BEFORE 2:00PM ON A DAILY BASIS. (REF 9.)

- 3) WILLIAM REYNOSO WAS ONLY EMPLOYED SINCE 2008. HE RECEIVED \$60.00 FOR A 6 HOUR SHIFT, NOT \$45.00 FOR AN 8 HOUR SHIFT. HE NEVER WORKED HIS SCHEDULED TIME; HE WOULD LEAVE 2 HOURS EARLY EVERYDAY, AND THEREFORE IS NOT AND WAS NEVER DUE ANY OVERTIME PAY. THIS WAS ONE OF THE MAJOR REASONS HE WAS LAID OFF.

AT NO TIME DID THE DEFENDANT, EDWARD GLOBOKAR, OR MY REPRESENTATIVES KNOWINGLY OR WILLFULLY FAIL TO PAY THE PLAINTIFFS THEIR LAWFULLY EARNED WAGES ACCORDING TO THE FLSA AND NEW YORK LABOR LAW. (REF 14.)

AT NO TIME DID THE DEFENDANT, EDWARD GLOBOKAR, OR MY REPRESENTATIVES KNOWINGLY OR WILLFULLY FAIL TO PAY THE PLAINTIFFS THEIR LAWFULLY DUE OVERTIME, HOLIDAY PAY, SICK TIME AND /OR VACATION PAY, ACCORDING TO THE FLSA AND NEW YORK LABOR LAW. (REF 15.)

AT NO TIME DID THE DEFENDANT, EDWARD GLOBOKAR, OR MY REPRESENTATIVES KNOWINGLY OR WILLFULLY FAIL TO PAY THE PLAINTIFFS THEIR LAWFULLY EARNED SPREAD OF HOURS, ACCORDING TO THE FLSA AND NEW YORK LABOR LAW. (REF 16.)

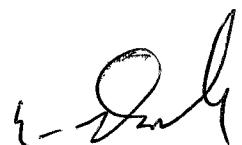
**STATEMENT OF FACTS**

JOSE DE LA ROSA LEFT AND WAS LAID OFF TWICE SINCE STARTING. HE WAS NOT CONTINUOUSLY EMPLOYED SINCE 1991. HE WOULD COME IN EVERYDAY AT 8:30AM OR 9:00PM AND WOULD LEAVE BEFORE 2:00PM ON A DAILY BASIS. ALTHOUGH HE WAS SCHEDULED FROM 8:00AM TO 4:00PM, HE RARELY CAME BEFORE 9:00AM AND ALWAYS LEFT BEFORE 2:00PM, AT MARYANN'S RESTAURANT LOCATED AT 116 8<sup>TH</sup> AVENUE, NEW YORK, NY 10011.

DUE TO JOSE DE LA ROSA'S INADEQUATE PERFORMANCE OF HIS DUTIES; TO PROPERLY STORE THE FOOD PRODUCTS, AND MAINTAIN THE CLEANLINESS OF THE WALK-IN REFRIGERATOR AND PREPERATION AREAS, MARYANN'S WAS CLOSED BY THE BOARD OF HEALTH 3 TIMES WITHIN 12 MONTHS.

AFTER THE THIRD REOPENING HE CONTINUED TO LEAVE EARLY AND LEAVE FOOD IMPROPERLY STORED. AN ARGUMENT ENSUED OVER THESE CONTINUOUS PROBLEMS WITH HIS IMMEDIATE SUPERVISOR, DOMINGO HERRERA. JOSE DE LA ROSA WALKED OFF THE JOB PRIOR TO 2:00PM. HE CALLED THE DEFENDANT, EDWARD GLOBOKAR, TO HIS CELL PHONE AND STATED HE NO LONGER DESIRED TO WORK AT MARYANN'S .

ALL THE ABOVE FACTS CAN BE VERIFIED BY THE LUNCH COOK, JUAN LOPEZ, SUPERVISOR, DOMINGO HERRERA OR MANAGER, LUZ CORTORREAL.



WILLIAM REYNOSO WAS A DISHWASHER FOR 2 YEARS, THEN PROMOTED TO ASSISTANT FOR PREPARATION, 3 DAYS AT A TOTAL OF 21 HOURS AND SCHEDULED 3 DAYS AS A DISHWASHER AT 24 HOURS. HE ROUTINELY WORKED 36 HOURS A WEEK OR LESS AS HE SCHEDULED 4:00PM, 3 DAYS A WEEK AND REGULARLY LEFT AT 2:00PM. THE 3 DAYS HE WAS WASHING DISHES, HE WAS SCHEDULED TIL 5:00PM BUT LEFT AT 4:00PM OR EARLIER WHEN THE 4:00PM EVENING SHIFT ARRIVED.

AT NO TIME DID THE DEFENDANT, EDWARD GLOBOKAR, OR MY REPRESENTATIVES KNOWINGLY OR WILLFULLY FAIL TO PAY THE PLAINTIFF, WILLIAMS REYNOSO, LAWFULLY DUE OVERTIME, ACCORDING TO THE FLSA AND NEW YORK LABOR LAW.

ALL THE ABOVE FACTS CAN BE VERIFIED BY THE LUNCH COOK, JUAN LOPEZ, SUPERVISOR, DOMINGO HERRERA OR MANAGER, LUZ CORTORREAL.

DURING THE COURSE OF THE PLAINTIFFS EMPLOYMENT BY DEFENDANT, HE RARELY WORKED OVER 40 HOURS PER WEEK. (REF 20.)

DURING THE RELEVANT YEARS OF EMPLOYMENT, PRIOR TO OCTOBER 2010, THE PLAINTIFF WAS NEVER SCHEDULED 7 DAYS A WEEK, NOR DID HE WORK 7 DAYS A WEEK. THE PLAINTIFF WAS NEVER SCHEDULED MORE THAN 8 HOURS PER DAY, NOR DID HE WORK MORE THAN 8 HOURS PER DAY.

PLAINTIFF RARELY WAS REQUIRED TO WORK AFTER 4:00PM AND MAY HAVE ONLY HAPPENED DURING IN AN EMERGENCY SITUATION WHEN THE NIGHT DISHWASHER WAS LATE.

IN THE MONTHS PRIOR TO HIS TERMINATION IN 2011, HE REGULARLY LEFT AT 2:00PM, LEAVING THE RESTAURANT WITHOUT ANY DISHWASHER FOR OVER 2 HOURS. IN FACT THE WEEK PRIOR TO OUR THIRD BOARD OF HEALTH CLOSING, HE CHANGED AND WENT HOME AT 2:00PM, EVEN THOUGH, MANAGER, LUZ CORTORREAL, INSTRUCTED HIM THAT HE WAS NOT FINISHED, NOR WAS HIS WORK AREA LEFT CLEAN. HE REGULARLY IGNORED INSTRUCTION FROM THE MANAGER, LUZ CORTORREAL, BECAUSE SHE WAS A FEMALE HISPANIC, REGULARLY DISRESPECTED HER AND HIS SUPERVISOR, DOMINGO HERRERA AND LEFT WHENEVER HE LIKED WITHOUT FINISHING HIS DUTIES.

WILLIAMS REYNOSO WAS PAID \$60.00 PER SHIFT FOR AT LEAST THE LAST 36 MONTHS, AND WHEN HE DID FOOD PREPARATION HE RECEIVED ADDITIONAL COMPENSATION.

BOTH DE LA ROSA AND REYNOSO, RECEIVED ONE WEEK PAID VACATION, 5 PAID HOLIDAYS ON DAYS THE RESTAURANT WAS CLOSED AND ALSO RECEIVED ADDITION SICKTIME PAY IN EVERY YEAR THAT THEY WERE EMPLOYED. THIS AMOUNTS TO NEARLY THREE PAID WEEKS, WHEN THEY DID NOT WORK.

THEY ALWAYS CAME AND LEFT AT THEIR OWN LEISURE, ATE WHATEVER THEY PLEASED, REGULARLY DRANK CORONA BEER ON THE JOB, TALKED ON THEIR CELL PHONES WITHOUT RESTRICTION. IF THEY NEEDED TIME OFF THEY WERE ALLOWED TO TAKE IT. IN ALL, I BELIEVE I MORE THAN FAIRLY TREATED OVER AND ABOVE BOTH DEFENDANTS, ACCORDING TO THE FLSA AND NEW YORK LABOR LAW.

FRANLIN MERCADO WAS NEVER UNDER PAID AND RARELY WORKED MORE THAN 8 HOURS IN A DAY

HE WAS REGULARLY SCHEDULE 3-4 DAYS AS HE WAS NOT A VERY QUICK OR EFFICIENT WAITER.

HE WAS NEVER SCHEDULED OVER 40 HOURS.

A handwritten signature in black ink, appearing to be "L. Cortorreal", located in the bottom right corner of the page.

HE WAS A BUSBOY FOR THE FIRST 2 YEARS THEN PROMOTED TO A WAITER, WORKING THE SLOWER NIGHTS.

DINNER WAS FROM 4:00PM UNTIL 10:00PM, SUN THRU THIRSDAY. SO HE WAS NEVER REQUIRED TO BE THERE FOR 8 HOURS, HE WAS SCHEDULED IN AT 4:00PM AND THE KITCHEN CLOSED PROMPTLY AT 10 OR BEFORE.

AS A WAITER HE ROUTINELY MADE OVER \$10.00 PER HOUR IN TIPS, ON TOP OF HIS PAID WAGES.

FRANKLIN MERCADO REGULARLY WANTED TO BE THE BOSS AND WAS CONTINUALLY MANIPULATIVE WITH HIS SUPERVISOR, LUZ CORTORREAL.

AFTER THE SECOND BOARD OF HEALTH CLOSING, I BROUGHT IN A NEW MANAGER ON MONDAY AND TUESDAY EVENINGS. HE CONTINUALLY COMPLAINED ABOUT FRANKLIN MERCADO NOT PROPERLY ATTENDING TO CUSTOMERS AND GENERALLY NOT GIVING ADEQUATED SERVICE. SO WHEN WE REOPENED AFTER THE THIRD CLOSING, WE MADE SOME STAFF CHANGES, WE DID NOT PUT FRANKLIN MERCADO BACK ON THE SCHEDULE, DUE ESPECIALLY POOR PERFORMANCE IN MARCH AND APRIL OF 2011.

MOST IMPORTANTLY THE PLAINTIFFS ARE NOT DUE ANY WAGES OR OVERTIME. THEY WERE ALWAYS PAID FOR THE HOURS THEY WORKED.

## II

### DEFENSES

*In this section, state any legal theories that, even assuming that what plaintiff has alleged in the complaint is true, do not permit the plaintiff to win the case. Attach additional sheets of paper as necessary*

#### FIRST DEFENSE:

I REQUEST THAT THE CASE BE DISMISSED AS IT HAS NO MERIT OR GROUNDS OF PROOF.

ALL THE ABOVE FACTS CAN BE VERIFIED BY THE LUNCH COOK, JUAN LOPEZ, SUPERVISOR, DOMINGO HERRERA OR MANAGER, LUZ CORTORREAL.

#### SECOND DEFENSE:

I WOULD LIKE AN EXTENSION OF TIME TO ATTAIN AN AVAILABLE LAWYER.

#### THIRD DEFENSE:

PLEASE READ THE ATTACHED LETTER - THE STATEMENT OF EDWARD GLOBOKAR.

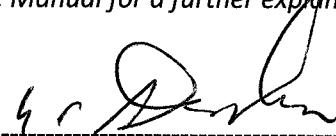
**WHEREFORE** defendant asks this Court to dismiss the complaint and enter judgment in favor of defendant.

*[If you have any counterclaim against the plaintiff that arises out of the same events or transactions stated in the complaint, and/or any crossclaims against the other defendants that arise out of the same events or transactions stated in this complaint, and/or any third-party claims you have against third-parties (that is, someone not already named in the lawsuit) that arise out of the same events or transactions stated in the complaint, you should attach additional sheets of paper to set forth the facts and bases for any such claims. See the Pro Se Manual for a further explanation.]*

**I declare under penalty of perjury that the following is true and correct**

**Signed this day august 22 20011**

signature of defendant-----



**Address**

**Maryanns jai ltd**

**located at 116 8<sup>th</sup> ave New York new York 10011**

**phone 212 633-0877**



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKDE LA ROSA, MERCADO  
AND REYNOSO

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

11 Civ. 4154 ( ) ( )

- against -

## AFFIRMATION OF SERVICE

JAI LTD MARS ANN'S  
116 8TH AVE  
NEW YORK, N.Y. 10011  
AND EDWARD L GLOBOTAR

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I, E.L. GLOBOTAR  
[Signature], declare under penalty of perjury that I have  
(name)served a copy of the attached ANSWER AND LETTER  
(document you are serving)upon CILENTTI & COOPER PLLC whose address is \_\_\_\_\_  
(name of person served)708 THIRD AVE 6TH FLOOR N.Y. N.Y. 10017  
(where you served document)by CERTIFIED MAIL  
(how you served document: For example - personal delivery, mail, overnight express, etc.)Dated: NEW YORK, NY  
(town/city) (state)AUGUST, 2011  
(month) (day) (year)[Signature]  
Signature116 8TH AVE  
AddressNY. NY.  
City, State10011  
Zip Code(212) 633 0877  
Telephone Number